IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION NO : 7580 of 1994

Between:

The Management of M/s sSingareni Collieries Co. Ltd.

PO Bellampalli, Adilabad Dist. AP

Rep. By its Chief General Manager,

Bellampalli –504 251,Adilabad District.

..... PETITIONER

AND

1. The Presiding Officer, Industrial Tribunal-I,

Chandra Vihar, M.J. Road, Hyderabad

2. The Workmen of S.C.Co. Ltd., PO Bellampalli,

Adilabad District. (AP) Rep.by the Chief Vice-President,

S.C.Workers' Union, PO: Bellampalli-504 251,Adilabad Dist. AP.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order, direction or a writ particularly one in the nature of writ of Certiorari after calling for the records from the first respondent in I.A. D. No. 17 of 1988 and quash the Award passed therein dated 10th November, 1993.

Counsel for the Petitioner: MR.K.SRINIVASAMURTHY

Counsel for the Respondent No.1: GP FOR SOCIAL WELFARE

Counsel for the respondent No.2 : None appeared.

The Court made the following:

O R D E R :

This Writ petition is filed by the Management of the Singareni Collieries Company Limited assailing the Award dated 10.11.2003 passed by the Industrial Tribunal-I, Hyderabad in I.D.No.17 of 1988.

2. At the instance of the Union of the Workmen, the following reference was made by the Central Government by its No.L-21011/28/87-D.III(B), dated 28.1.1988 for adjudication by the first respondent-Tribunal:

> *"Whether after having declared lock-out in the second shift on 1.9.1986 in their Goleti No.1 Incline, the action of the Management of M/s. Singareni Collieries Company Limited, in allowing muster to a section of Workmen numbering 76 and paying them their wages and denying the said benefit to other 149 workers who were also deployed to work in the same shift is fair and justification. If not, to what relief the said 149 workmen are entitled?"*

3. The dispute was numbered as I.D.No.17 of 1988. However, the Union after filing the claim did not participate in the matter and neither any evidence was adduced nor any documents were marked on their behalf. The Tribunal by Award dated

10.11.2003 held against the management and consequently passed the Award on 10.11.2003 directing the management to pay the full wages for 149 workmen who attended the second shift on 1.9.1986. Assailing the said Award, the present Writ Petition has been filed by the management.

4. The learned Counsel for the petitioner-management, however, submits that the Award of the Tribunal is only illegal and without jurisdiction. It is for the Union to establish their case and in the instant case, no witnesses were examined for the union nor any documents were marked. But, strangely enough the Tribunal has passed the Award in favour of the workmen. Thus, the Award passed by the Tribunal suffers from serious infirmity and error apparent on the face of record. On merits, the learned counsel submits that when the lockout was declared, essential staff has necessarily been engaged. Therefore, the company engaged 76 employees falling under essential category. In such an event, there is no obligation to cast upon the management to pay wages to the other employees under the category of essential staff. Therefore, this aspect was not considered by the Tribunal in a proper perspective. Hence, the finding of the Tribunal is perverse and is liable to be set aside. As rightly contended by the learned Counsel for the
petitioner-management that the workmen have adduced no evidence nor any documents were marked.

5. Under those circumstances, it would not be appropriate on the part of the Tribunal to decide the matter against the management, more especially in the absence of any evidence having been placed before the Tribunal.

6. Under those circumstances, I am of the considered view that the matter requires for reconsideration. Accordingly, the impugned Award is set aside and the matter is remitted back to the first respondent for fresh consideration in accordance with law. The Tribunal shall issue notices to the parties concerned and decide the reference within a period of four months from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition is allowed. No costs.

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G. BIKSHAPATHY, J

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Devinder Gupta, the Chief Justice on this Thursday, theTwenty third day of Setepmber, Two thousand and four.

ASSISTANT REGISTRAR

Dated:23.9.2004,

Ccm

To:

1. The Chief General Manager,Management of M/s Singareni Collieries Co. Ltd.

PO Bellampalli, Adilabad Dist. AP – PIN 504 251.

2. The Presiding Officer, Industrial Tribunal-I,

Chandra Vihar, M.J. Road, Hyderabad

3. 2 CCs to the G.P. for Labour, High Court Buildings, A.P.Hyderabad(OUT)

4. 2 CD copies.